IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
CONTEMPT PETITION NO.228 OF 2004

Abdul Wahid Haji Abdul Rahman Khan & Ors. -Petitioners
Versus
Abdul Rasheed Haji Abdul Rahman Khan & Ors.- Respondents

Shri A.N.Maniyar for the Petitioners.
Shri D.A.Patil for the Respondents.

CORAM : ABHAY S.OKA, J.
DATED : JUNE 20, 2007.

P.C.:

1. Heard learned Advocates appearing for the parties. The case of the Petitioner is that the contemnors have committed breach of order dated 26th August, 2003 passed by a Division Bench of this Court in a Writ Petition.

2. By the said order this Court directed the State Government to decide the Appeal preferred by the Petitioner as expeditiously as possible and in any event within a period of three months from the date of the order.

3. A reply is filed by Shri N.S.Bansod, Under Secretary of the State Government stating therein that the Appeal was decided on 29th December, 2003. A copy of the order passed in Appeal is also annexed to the affidavit. It is stated in the affidavit that by a communication dated 05th January, 2004, the Petitioner was informed about the disposal of the Appeal. A copy

of the said communication is also annexed to the affidavit.

4. A rejoinder has been filed by the Petitioner in which it is stated that when this Petition appeared before the Court on various dates, at no point of time it was pointed out that the Appeal has been decided on 29th December, 2003. It is pointed out that even by way of reply to legal notice issued to the Petitioner on 22nd January, 2004, the Respondents did not inform the Petitioner about the disposal of the Appeal.

5. I have considered the submissions. Though belatedly, the Appeal has been disposed of on 29th December, 2003. There is nothing on record to show that the communication dated 05th January, 2004 made by the contemnors was served to the Petitioner. My attention has been invited to letter dated 22nd January, 2004 sent by the Advocate for the Petitioner to the Appellate Authority which was duly received by the Appellate Authority on the same day. Surprisingly, no reply was sent to the said letter. In the said letter it is specifically mentioned that Appeal was heard on 14th November, 2003.

6. Had the letter dated 22nd January, 2004 been

promptly replied by the State Government, there would not have been any occasion for the Petitioner to file this Contempt Petition. My attention is invited to order dated 16th August, 2004 which was passed in this Petition after hearing the learned A.G.P. Even on that day it was not brought to the notice of this Court that the Appeal has been decided. Prior to 16th August, 2004, the Contempt Petition appeared on board on 30th July, 2004 when an adjournment was granted to the State Government to file reply. Had the State Government been prompt, the filing of the Contempt Petition could have been avoided. As the State Government failed to communicate the order passed on Appeal, the Petitioner was forced to file this Petition and was forced to file a rejoinder.

7. Considering the compliance with the order, no further action is required to be taken under the Contempt of Courts Act, 1971. However, the second Respondent will have to pay costs of this Petition to the Petitioner. The amount of costs is quantified at Rs.5,000/-.

8. Hence, notice issued to the second Respondent on 16th August, 2004 is discharged. Contempt Petition is disposed of. The second Respondent will pay costs of

Rs.5,000/- to the Petitioner within a period of eight weeks from today.

JUDGE